IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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O R D E R

Miss.Ganpati Deora
vs.
State of Rajasthan & Ors.

S.B. CIVIL WRIT PETITION NO.5295/2003 UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 22nd December, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

None present for the petitioner.
Mr.Rameshwar Dave, Dy. Govt. Advocate.

BY THE COURT

The petitioner in this writ petition has prayed that the order dated 12th November, 2002 whereby the respondents have declined to provide her compassionate appointment be quashed and set aside and they be directed to consider her

case for appointment on the post of L.D.C. under the provision of the Rule of 1996 by condoning delay.

The petitioner claims that she is a member of scheduled caste and has passed secondary school examination from Board of Secondary Education, Rajasthan in 1996. Her father Shri Achala Ram while serving the respondents as Teacher Gr.III expired on 15th September, 1996. She applied for compassionate appointment in his place. But when nothing happened for quite some time, a letter dated 15th May, 1999 was addressed by District Education Officer (Sec. Edu.), Jodhpur (respondent No.3) to Director Secondary Education, Rajasthan, Bikaner (respondent No.2). The Director called for certain information/clarification from the District Education Officer which were also sent by letter dated 16th October, 1999. It was thereafter that the petitioner received the letter dated 12th November, 2002 vide which her application was rejected.

I have heard Shri Rameshwar Dave, learned Dy. Govt. Advocate and perused the record.

Learned counsel for the petitioner argued that the petitioner's mother was not literate therefore she could not immediately apply for compassionate appointment and delay

caused in submitting application for compassionate appointment thus occasioned for bona fide reasons. The petitioner is a member of scheduled caste and her family was passing through financial distress. According to the Rules of 1996, the petitioner is entitled to appointment on compassionate grounds.

On the other hand, learned Dy. Govt. Advocate argued that the compassionate appointment is not a source of employment. It is merely a concession given to the dependents of the deceased government servant upon whom a sudden crisis has befallen on accounting death of sole earning member of the family. In the present case, Rule 10(3) of the Rules of 1996 requires that the dependent should make application for compassionate appointment within 90 days form the date of the death of the government servant. Application was made with the delay of about one year and nine months. The Government has issued a circular dated 01st June, 2000 whereby it has taking lenient view directed the delay of one year can be condoned, but the case of the petitioner does not fall within that category since the petitioner failed to give any

reasonable explanation.

In the present case, I find that the reason assigned by the respondents in rejecting the application of the petitioner does not appear to be wholly irrelevant or extraneous. Delay by itself has been accepted a valid criteria by law courts to refuse compassionate appointment which is required to be given soon after the death of the sole bared winner of the family. In the present case not only the application was submitted late but more than a decade has gone by now since the death of the government servant. I therefore do not find any justification in law to now direct the respondents to consider the case of the petitioner.

The writ petition is therefore dismissed with no order as to costs.

[MOHAMMAD RAFIQ],J.

AKC